

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Denyatta Raymond Mackins,

Plaintiff,

vs.

Special Agent Steven Kirk and Officer  
Matthew Earls,

Defendants.

Civil Action No. 0:24-cv-3619-CMC-SVH

**ORDER**

Plaintiff Denyatta Raymond Mackins (“Plaintiff”) filed this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. ECF No. 44 (Second Amended Complaint). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e), D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings. This matter is before the court on motions to dismiss by Defendants Special Agent Steven Kirk and Officer Matthew Earls (collectively, “Defendants”). ECF Nos. 47, 50. Because Plaintiff is proceeding *pro se*, *Roseboro* Orders were mailed, advising him of the summary judgment procedures and the need to file responses. ECF Nos. 48, 51. Plaintiff filed responses in opposition to each motion to dismiss. ECF Nos. 53, 54.

On January 16, 2025, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending Defendants’ motions to dismiss be granted in part and denied in part. ECF No. 55. Specifically, the Report recommends the court abstain from jurisdiction pursuant to *Younger v. Harris*, 401 U.S. 37 (1971). However, instead of dismissing the case as Defendants request, the Magistrate Judge recommends a stay until the pending criminal charges against Plaintiff are resolved. *Id.* at 7, 9. The Magistrate Judge advised the parties of the procedures and

requirements for filing objections to the Report and the serious consequences if they failed to do so. No party filed objections, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After considering the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error and agrees with the Report’s recommendations. Accordingly, the court adopts the Report by reference in this Order. Defendants’ motions to dismiss Plaintiff’s claims are granted as to abstention under *Younger*, but denied as to dismissal.<sup>1</sup> Instead, the court will stay this case pending resolution of the state court criminal proceedings

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<sup>1</sup> The court agrees with the Report’s conclusions regarding Defendant Kirk’s arguments he is protected by Eleventh Amendment immunity and is not a “person” for purposes of § 1983, and will not dismiss Kirk on these grounds. ECF No. 55 at 8 n.2.

against Plaintiff. Plaintiff is hereby ordered to apprise the court every six months, beginning six months from the date of this Order, of the status of his criminal proceedings, and both parties are directed to notify the court when the criminal charges are resolved so the stay can be lifted.

This matter is re-referred to the Magistrate Judge for pre-trial proceedings on Plaintiff's remaining claim.

**IT IS SO ORDERED.**

s/Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
Senior United States District Judge

Columbia, South Carolina  
February 11, 2025